IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

WP(C).No. 23980 of 2005(D)

PETITIONER:

A.K.RAJAN, S/O. RAMAN KUMARAN,
AKKAPPARAMBU HOUSE, ANGAMALY SOUTH P.O.
ERNAKULAM DISTRICT.

BY ADV. SRI.A.K.RAJAN(PARTY IN PERSON)

RESPONDENTS:

THE DEPUTY DIRECTOR OF PANCHAYATS,
ERNAKULAM, CIVIL STATION, KAKKANAD.

***ADDL.R2 IS IMPLEADED:**

R2. THE SECRETARY,
KARUKUTTY GRAMA PANCHAYATH.

(ADDL.R2 IS IMPLEADED AS PER ORDER DTD. 02/06/2006 IN I.A.NO.6735/06)

***ADDL.R3 TO R6 ARE IMPLEADED:**

R3. THE SECRETARY,
GRAMA PANCHAYAT OFFICE, KALLOORKADU.

R4. THE SECRETARY,
GRAMA PANCHAYAT OFFICE, KEEZHMADU.

R5. THE SECRETARY,
GRAMA PANCHAYAT OFFICE, MULAVUKADU.

R6. THE SECRETARY,
GRAMA PANCHAYAT OFFICE, PARAKKADAVU.

(ADDL.R3 TO R6 ARE IMPLEADED AS PER ORDER DTD.26/07/2006 IN IA NO.10229/2006)

BY GOVERNMENT PLEADER SRI. P.A. SALIM
BY ADV. SRI.JOHNSON ABRAHAM
SRI.S.GOPINATHAN
SRI.NELSON ABRAHAM
SRI.M.R.GOPALAKRISHNAN NAIR
SRI.K.G.SARATHKUMAR
SRI.K.SREESAKUMAR
SRI.ABHILASH BHASKAR
SRI.BINU JOHN
SRI.V.S.CHANDRASEKHARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:	**COPY OF THE SUSPENSION ORDER FROM KARUKUTTY GRAMA PANCHAYATH.**
EXT.P2:	**COPY OF THE CHARGE SHEET FROM KARUKUTTY GRAMA PANCHAYAT.**
EXT.P3:	**COPY OF THE NOTICE FOR HEARING FROM DY.DIRECTOR OF PANCHAYAT ERNAKULAM.**
EXT.P4:	**COPY OF THE ORDER FOR RE-POSTING FROM DEPUTY DIRECTOR OF PANCHAYAT ERNAKULAM.**
EXT.P5;	**COPY OF THE TRANSFER ORDER TO PALLARIMANGALAM FROM DY.DIRECTOR OF PANCHAYATS, ERNAKULAM.**
EXT.P6:	**COPY OF THE ORDER FOR THE REGULARISATION OF THE SERVICE OF PETITIONER FROM D.D.P. ERNAKULAM.**
EXT.P7:	**COPY OF THE ACCUSATION MEMO FROM DEPUTY DIRECTOR OF PANCHAYATS, ERNAKULAM.**
EXT.P8:	**COPY OF THE ACCUSATION LETTER FROM DEPUTY DIRECTOR OF PANCHAYATS, ERNAKULAM.**
EXT.P9:	**COPY OF THE ORDER OF FINAL DECISOIN OF THE SUSPENSION FROM DY. DIRECTOR OF PANCHAYAT,ERNAKULAM.**
EXT.P10:	**COPY OF THE MEMO FROM THE MULAVUKADU GRAMA PANCHAYAT.**
EXT.P11:	**COPY OF THE SUSPENSION OFDER FROM DEPUTY DIRECTOR OF PANCHAYATS, ERNAKULAM.**
EXT.P12:	**COPY OF THE ORDER FOR POSTING FROM D.D.P., ERNAKULAM.**
EXT.P13:	**COPY OF THE TRANSFER ORDER TO SREEMOOLANAGARAM FROM THE DEPUTY DIRECTOR OF PANCHAYATS, ERNAKULAM.**
EXT.P14:	**COPY OF THE TRANSFER ORDER TO KANJOOR AND PARAKKADAVU FROM DIRECTOR, TRIVANDRUM.**
EXT.P15:	**COPY OF THE FINAL DECISION ON SUSPENSION FROM DEPUTY DIRECTOR OF PANCHAYATS, ERNAKULAM.**

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EXT.P16: COPY OF TRANSFER ORDER TO KOTTUVALLY FROM D.D.P., ERNAKULAM.

EXT.P17: COPY OF THE RELIEVING CERTIFICATE FROM PARAKKADAVU.

EXT.P18: COPY OF LETTER TO THE D.D.P., ERNAKULAM.

EXT.P19: COPY OF TRANSFER ORDER TO KUMBALANGHI FROM DEPUTY DIRECTOR OF PANCHAYATS, ERNAKULAM.

EXT.P20: COPY OF LETTER TO THE SECRETARY PARAKKADVU.

EXT.P21: COPY OF LETTER FOR THE UNAUTHORISED ABSENCE IN KUMBALANGHI.

EXT.P22: COPY OF THE ORDER FOR THE ENQUIRY OFFICER FROM DEPUTY DIRECTOR OF PANCHAYATS, ERNAKULAM.

EXT.P23: COPY OF THE LETTER FOR ENQUIRY FROM DEPUTY DIRECTOR OF PANCHAYAT ERNAKULAM.

EXT.P24: COPY OF THE LETTER FOR THE FAVOURS FROM PARAKKADAVU.

EXT.P25: COPY OF THE NOTICE FOR UNAUTHORISED ABSENCE.

EXT.P26: COPY OF THE REPLY TO DEPUTY DIRECTOR OF PANCHAYATS, ERNAKULAM.

EXT.P27: COPY OF THE LETTER NO.C2-14/85 DTD. 07/07/03 FRFOM THE SECRETARY, KANJOOR GRAMA PANCHAYAT.

EXT.P28: COPY OF THE LETTER NO.E-229/03 DTD. 25/09/03 FROM THE SECRETARY, KUMBALANGHI GRAMA PANCHAYAT.

3RD RESPONDENT'S EXHIBITS:

EXT.R3(A): COPY OF THE LETTER NO.600/98 DTD. 14/09/1999 ADDRESSED TO THE FIRST RESPONDENT BY THE THIRD RESPONDENT.

EXT.R3(B): COPY OF THE MEMORANDUM DTD. 14/09/1999 ISSUED BY THE THIRD RESPONDENT.

EXT.R3(C): COPY OF THE FORM 'A' DTD. 14/09/1999.

EXT.R3(D): COPY OF THE FORM 'C'.

EXT.R3(E): COPY OF THE FORM 7 DTD. 14/09/1999.

EXT.R3(F): COPY OF THE LETTER NO.E4-1152/99 DTD. 28/09/1999 ADDRESSED ATO THE THIRD RESPONDENT.

EXT.R3(G): COPY OF LETTER NO.600/98 DTD. 7/10/1999 ADDRESSED TO THE FIRST RESPONDENT.

EXT.R3(H): COPY OF THE RELEVANT PAGE OF FAIR COPY REGISTER.

6TH RESPONDENT'S EXHIBIT:

EXT.R6(A): COPY OF REPLY LETTER NO.A4-865/02 DTD. 18/11/2004 ISSUED BY 6TH RESPONDENT TO 1ST RESPONDENT.

/TRUE COPY/

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T.R.RAMACHANDRAN NAIR, J.

W.P.(C).NO.23980 OF 2005 (D)

Dated this the 28th day of February,2007.

J U D G M E N T

The petitioner entered service as a Lower Division Clerk as per advise memo dated 28.7.1997 of the Public Service Commission, and as appointed by the first respondent, Deputy Director of Panchayaths. He joined service in the Karukutty Grama Panchayath. It appears that while he was working in the Karukutty Grama Panchayath he was suspended from service as per Ext.P1 order. Ext.P2 is the memo of charges issued to him. Thereafter proceedings were initiated under the relevant rules against him. He was reinstated in the service by order dated D2-16406/97 dated 3.7.1998, as per Ext.P4 order. Ultimately, after, the completion of the proceedings, first respondent passed Ext.P9 order dated 29.01.2000, whereby petitioner has been imposed due punishment. According to the petitioner before Ext.P9 was issued, he was transferred under various orders issued by the first respondent to different Panchayaths. Again while he was working in the Mulavukadu Panchayath he was subjected to disciplinary proceedings which culminated in Ext.P15 passed by first respondent. According to the petitioner he was being transferred to various Panchayaths and lastly he joined in the Kumbalangi Panchayath. Ext.P25 represent a notice issued by the first respondent seeking explanation for some allegations raised against him for not joining in the Kanjoor Panchayath. The petitioner submitted Ext.P26,

which is a reply to Ext.P25 notice. Ext.P28 is an order by which the Kumbalangi Grama Panchayath refused to sanction the leave asked for. It is now submitted by the Government Pleader that he has been issued a show cause notice seeking explanation as to why he should not be removed from service.

2. Petitioner has raised various grounds challenging the proceedings in Exts.P9 and P15. He has also sought for appropriate directions to direct the Panchayaths, to produce relevant records of those Panchayaths to sustain his contentions regarding the validity of the proceedings challenged by him.

3. The proceedings taken against the petitioner are based on certain reports of enquiry and this court sitting under Article 226 of Constitution of India cannot act as an Appellate authority for re-appreciating the evidence adduced by the parties in those proceedings. Apart from that, the petitioner has got an effective remedy of appeal under the relevant rules before the Director of Panchayath. Since the Writ Petition has been pending here, the petitioner can be given an opportunity to file an appeal before the appropriate authority against Exts.P9 and P15 orders. If the petitioner files appeals, against Exts.P9 and P15 orders within fifteen days from today before the Appellate authority, the Appellate authority will consider the matter on its merits after hearing the petitioner and other necessary parties within four months from the date of receipt of the appeals.

4. Petitioner has got a complaint that he is not being given a suitable posting by the first respondent. Learned Government Pleader pointed out that petitioner was continuing on unauthorised absence and action has been already initiated against him. It is for the petitioner to approach the first respondent in the matter and petitioner can submit appropriate representation before the first respondent in that regard.

5. According to the petitioner he has not been paid the bonus which was due to him for his service in the Parakkadavu Grama Panchayath. I heard the counsel for the Panchayath also. The counsel submitted that the sanction for payment of bonus was received after the petitioner was relieved from the Panchayath and therefore the amount was not paid to him. If the petitioner is eligible to be granted any monetary benefit from the concerned Panchayaths, in which he was working, he can file appropriate applications before the first respondent detailing those amounts which are legally due to him and if so, first respondent will consider it and take appropriate action in the matter.

With the above directions, this Writ Petition is disposed of.

T.R.RAMACHANDRAN NAIR, JUDGE

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